

MAIL STOP AMENDMENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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		§	
Conf. No.:	5885	§	Group Art Unit: 1655
		§	
Appln. No.:	10/715,926	§	Examiner: To be Assigned
		§	
Filing Date:	November 18, 2003	§	Attorney Docket No.: 10338-17US
		§	(12128060/VPA)

Title: ADHERENT ENTITIES AND USES THEREFOR

RESPONSE TO RESTRICTION AND ELECTION REQUIREMENTS

This document is in response to an Office Action dated May 26, 2006 (Paper No. 20060505) comprising only restriction and election requirements concerning the above-identified application. This response is being timely submitted in view of the simultaneous submission of a four-month Petition for Extension of Time of four months to and including October 26, 2006, together with an authorization to charge the appropriate extension fee to the undersigned attorney's law firm's Deposit Account.

The Office Action identified fifteen different invention groups among the 76 claims pending in this application. The subject matter of several of the groups of claims was considered independent or distinct for various reasons. Other groups of claims were considered to be related, such as product and process of use, but still considered to be distinct, also for various other reasons.

Despite stating various reasons for the determination that several different inventions are claimed, the Office Action failed to recognize the significant commonality of language relating to many of the separately identified groups. Based on this lack of recognition, Applicants respectfully traverse the restriction requirement for the reasons as explained below.

Claims 1, 22-27, 29, 32-35, 41-45, 48, 50-52, 54-57, 60, 63, 66, 67, 70 and 73 are the pending independent claims. This may seem to be a large number of independent claims, but Applicants regard them as covering differing aspects of the same invention. Thus, what would be considered under PCT Rule 13.2 to be the same or corresponding special technical feature, and bearing in mind that the present application is a U.S. national application filed as a continuation of underlying International Application No. PCT/AU02/00611, such feature is a common, underlying aspect of all of the independent claims. That aspect is, in essence, "detecting an organism which is

capable of adhering to sperm and which correlates with at least one of [certain conditions relating to reproduction], wherein the correlation is made if the organism is capable of remaining adherent to sperm after washing the sample comprising organism-positive sperm to permit removal or separation of non-sperm substances from the sample.” This common feature is believed to be the primary feature to be searched among the various groups of inventions. As such, whether the particular aspect involving this feature is a method for detecting the presence of a reproductive function-modulating organism (Group I), a method for diagnosing a higher risk of infertility, or an adverse pregnancy outcome or an assisted reproductive technology outcome, (Group II), or an isolated adhesin (obtainable from an organism capable of adhering to sperm), (Group III), or other similar aspects, would not seem to be overly burdensome to search and examine. Moreover, the Office Action did not identify different classifications among the identified groups.

Based on the foregoing explanation, Applicants respectfully request the Examiner to reconsider and withdrawn the restriction requirements and consider all claims together in the present application.

Assuming that the Examiner does not withdrawn the restriction requirement, Applicants hereby provisionally elect, as explained above, for prosecution in this application the subject matter of the following claims, which Applicants request be grouped together as a new Group XVI, in view of the presence not only of the common feature mentioned above, but also that the condition to which the organism that is capable of adhering to sperm and correlates with is an adverse assisted reproductive technology (ART) outcome. These claims include claims 1-18, 24, 27-31, 34-40, 44, 45, 48-53, 56, and 67-78. Thus, included within this provisional election is the provisional election of the species of the condition relating to reproduction being an adverse ART outcome.

The Examiner indicated in the last sentence of page 6 of the Office Action that claims 1, 35, 49, 50, 51, 52 and 73 are generic. Clearly, these bridge more than one of the 15 groups defined by the Examiner, and correlate better with the proposed new Group XVI set forth above.

If the Examiner is not willing to regroup the claims as suggested above into a new Group XVI, and proceed with examination of such new Group XVI, then Applicants provisionally elect for prosecution in this application, with traverse as explained above, the subject matter of Group I, namely, claims 1, 3-18, 22-31 and 41-44.

In view of the provisional election of Group I, in lieu of the preferred new Group XVI suggested above, Applicants provisionally elect for purposes of searching only the species of an adverse assisted reproductive technology (ART) outcome.